

Public Chapter 131

SENATE BILL NO. 605

By Henry

Substituted for: House Bill No. 771

By Jackson

AN ACT To amend Tennessee Code Annotated, Title 45, Chapter 8, Part 2, relative to business and industrial development corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-8-203, is amended by adding a new subdivision (26) as follows:

(26) "Well-capitalized" shall mean, in the case of a licensee under this part, a licensee which has stockholders' equity at least equal to the greater of ten million dollars (\$10,000,000) or fifteen percent (15%) of total assets, which is not subject to any administrative enforcement action or order and the condition of which was considered as satisfactory in its last examination in the opinion of the commissioner.

SECTION 2. Tennessee Code Annotated, Section 45-8-205(a), is amended by deleting subsection (a) and by redesignating subsections (b), (c) and (d) as (a), (b) and (c), respectively.

SECTION 3. Tennessee Code Annotated, Section 45-8-210(b)(6), is amended by deleting the first sentence and inserting in lieu thereof the following:

In connection with an extension of credit by a licensee, a licensee may charge or receive interest at any rate which does not exceed the maximum rate which may be charged or received by any other lender in Tennessee which is chartered or licensed by the State of Tennessee or any agency or instrumentality thereof or charged or received by a small business investment company licensed by the Small Business Administration, subject only to those terms and conditions stipulated in this part.

SECTION 4. Tennessee Code Annotated, Section 45-8-210(b), is amended by adding a new subdivision (7) as follows:

(7) In connection with funding its operations, a licensee may sell small business loans, other securities and related collateral to special purpose corporations (including subsidiaries of the licensee), grantor or other trusts or similar entities which purchase such loans and resell or pledge such loans to third parties in connection with securitizations and similar transactions, and such

entities may collect interest, principal, and fees with respect to loans originated by a licensee without being required to be licensed hereunder.

SECTION 5. Tennessee Code Annotated, Section 45-8-210(c)(2)(B), is amended to read as follows:

(B) Require that a licensee maintain a reserve in the amount of anticipated losses unless the loans have been marked to market value pursuant to applicable accounting standards; or

SECTION 6. Tennessee Code Annotated, Section 45-8-211(d), is amended to read as follows:

(d) Upon written notice to and consent from the commissioner, a licensee may establish, relocate or close an office, except that no consent shall be required if the licensee is well-capitalized.

SECTION 7. Tennessee Code Annotated, Section 45-8-213(d), is amended to add at the end thereof, after the word "person" and before the period, the words and punctuation ", other than a direct or indirect subsidiary thereof".

SECTION 8. Tennessee Code Annotated, Title 45, Chapter 8, Part 2, is amended by adding a new Section 45-8-226 as follows:

Section 45-8-226. The requirements of Section 45-8-212 shall not be applicable to a well-capitalized licensee; provided, however, that within thirty (30) days of ceasing to be well-capitalized, a licensee must apply for commissioner approval in order to retain any business acquired without the commissioner's prior approval.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.